

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

STACEN OMAR  
OUTHOUMMOUNTRY,

Plaintiff,

v.

PASCUA, et al.,

Defendants.

No. 1:22-cv-00104-JLT-SAB (PC)

ORDER SETTING EVIDENTIARY HEARING  
TO DETERMINE DISPUTED ISSUES OF  
FACT REGARDING EXHAUSTION OF THE  
ADMINISTRATIVE REMEDIES

(ECF No. 62)

Plaintiff is proceeding pro se and in forma pauperis in this civil rights action filed pursuant to 42 U.S.C. § 1983.

On March 25, 2024, Findings and Recommendations were issued recommending Defendants' exhaustion motion for summary judgment be denied and the matter be set for an evidentiary hearing to determine whether the action should be dismissed, without prejudice, for failure to exhaust the administrative remedies. (ECF No. 61.)

On June 4, 2024, the District Judge declined to consider the Findings and Recommendations until after the completion of the evidentiary hearing under Albino v. Baca, 747 F.3d 1162, 1166 (9th Cir. 2014). (ECF No. 62.)

In order to resolve the disputes of fact, the Court sets an Albino evidentiary hearing before the undersigned on **Friday, August 16, 2024, at 10:00 a.m.** in Courtroom 9. A separate order and writ of habeas corpus ad testificandum for Plaintiff will be issued in due course. The parties shall arrange to bring and present their witnesses and evidence during the evidentiary hearing.

1 Any unincarcerated witnesses may appear voluntarily without further order of the Court.  
2 To the extent that the parties seek to have incarcerated witnesses appear for the evidentiary  
3 hearing, all motions for the attendance of incarcerated witnesses must be filed on or before **June**  
4 **28, 2024**. The witnesses must have relevant evidence regarding the issues described above. The  
5 motion should be entitled "Motion for Attendance of Witnesses." The motion must: (1) state the  
6 name, address, and prison identification number (if any) of each witness to be called; (2) explain what  
7 relevant information each witness has, and how that witness has personal knowledge of the relevant  
8 information; and (3) state whether each such witness is willing to voluntarily testify. Any opposition  
9 to a motion for the attendance of incarcerated witnesses must be filed on or before **July 5, 2024**.

10 No later than **August 2, 2024**, the parties shall confer regarding the witnesses to be called  
11 and the evidence to be presented at the hearing. The parties shall be prepared to submit exhibits in  
12 proper form at the evidentiary hearing, with proper foundation. The original and two copies of all  
13 exhibits, along with exhibit lists, shall be submitted to Courtroom Deputy Jan Nguyen no later  
14 than **August 9, 2024**. Plaintiff's exhibits shall be pre-marked using numbers beginning with 1  
15 (e.g., 1, 2, etc.). Defendants' exhibits must be pre-marked using letters beginning with A (e.g., A,  
16 B, C ... AA, BB, CC ... AAA, BBB, CCC, etc.).

17  
18 IT IS SO ORDERED.

19 Dated: **June 10, 2024**

  
UNITED STATES MAGISTRATE JUDGE